# In the Supreme Court of the United States

OCTOBER TERM, 1970

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No. 1648

WILLIAM PAUL RAGSDALE, PETITIONER

*v.*

UNITED STATES OF AMERICA

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*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT*

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## BRIEF FOR THE UNITED STATES IN OPPOSITION

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### OPINIONS BELOW

The opinion of the court of appeals (Pet. App. A1-A13) is reported at 438 F. 2d 21. The judgment of the district court was rendered without opinion.

### JURISDICTION

The judgment of the court of appeals was entered on January 29, 1971. The petition for a writ of certiorari was filed on April 28, 1971. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

## QUESTIONS PRESENTED

1. Whether the instructions to the jury deprived petitioner of his right to have the jury determine whether his acts were committed with the specific intent required by 18 U.S.C. 242.

2. Whether the instructions constituted a direction to find petitioner guilty.

## CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The provisions of the Sixth Amendment of the Constitution of the United States and 18 U.S.C. 242 are set forth at pages 2-3 of the petition.

## STATEMENT

Petitioner, a former sheriff of Lee County, Alabama, was prosecuted under a five-count indictment charging separate substantive violations of 18 U.S.C. 242. The first three counts alleged brutality toward male inmates. The fourth and fifth counts charged sexual misconduct with a female inmate. A trial by jury resulted in a verdict of guilty as to Count 1 and apparently no verdict as to Counts 2 through 5, inclusive[1]

The uncontradicted evidence relating to Count 1, including the testimony of the petitioner himself, disclosed the following facts: Lawrence Williams was an inmate of the Lee County Jail under the custody of petitioner Ragsdale. On several occasions, Williams unlawfully left the jail. Following each of

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[1] See n. 2, *infra*.

the first few of these escapes, Williams received lectures upon his return to jail. On later recaptures, petitioner disciplined Williams by striking him with a restraining belt. On the particular reapprehension which gave rise to the conviction involved here, petitioner confronted Williams with a choice of procedures: petitioner told Williams he would either swear out a warrant against him for the offense of escape from custody, or would himself administer punishment in the form of six strokes of the restraining belt. Williams agreed to accept the six blows, which petitioner administered.

The court initially charged the jury regarding all six offenses, defining the requisite intent under Section 242 in a manner not here challenged (Pet. App. A4, A5). That charge included a comment on Count 1, which the judge carefully identified as one the jury was "free to disregard," that the jury could find petitioner guilty on the uncontradicted evidence—*i.e.*, that the requisite deprivation of rights was present. One and one half hours after the case was submitted to them the jury asked for additional instructions on the element of intent as it applied to Count 1. In response to this request, the judge addressed the jury at some length (Pet. App. A5-A7). He instructed them, *inter alia*, that petitioner "had no right" to give Williams such a choice and that the petitioner, by putting Williams to that choice instead of proceeding pursuant to a warrant, deprived him of his rights (Pet. App. A6). The trial court then concluded (Pet. App. A6-7):

> Really, about all I have left for your judgment, ladies and gentlemen, in Count 1, is whether you were convinced beyond a reasonable doubt that the evidence as presented to you is what happened. And if you are convinced beyond a reasonable doubt, under the uncontradicted evidence he would be guilty under Count 1.

A few minutes later, the jury returned a verdict of guilty on Count 1, apparently rendering no formal verdict on the other counts.[2]

## ARGUMENT

1. The court below correctly held that the trial court's instruction did not deprive the jury of its

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[2] THE COURT: Have you reached a verdict?
THE FOREMAN: We have, your Honor.
THE COURT: Hand it to the Clerk, please.

(Pause.)

THE COURT: We, the jury, find the defendant William Paul Ragsdale guilty as charged in Count 1 of the indictment, this 23rd day of April, 1970. And it is signed by the foreman. Gentlemen, there is one thing about the verdict, the word "Counts" is in the plural. May I change that and make it singular?
MR. BEDDOW: Yes, sir.
THE COURT: It was only one count you wanted to find him guilty of?
THE FOREMAN: Yes, sir.
THE COURT: All right. With everyone's permission I will change that and I will ask each juror is this your verdict.

(Whereupon, the jury was polled by the Court and each and every member thereof answered in the affirmative, that this was his or her own individual verdict.)

THE COURT: I discharge you from any further consideration of this case. * * *. [Tr. 761-762.]

proper function of determining whether Sheriff Ragsdale's acts were committed with the specific intent required by 18 U.S.C. 242.

In order to find that the petitioner acted "willfully" within the meaning of Section 242, the jury had to find that the petitioner acted with specific intent to deprive the prisoner of a constitutional right, "*e.g.*, the right to be tried by a court rather than by ordeal." *Screws* v. *United States*, 325 U.S. 91, 107. That issue, of course, must be submitted to the jury under appropriate instructions. *Id.* at 101. The petitioner argues that the trial judge's instruction as to Count 1 improperly precluded a jury determination on the question whether petitioner acted with the intent required to sustain a conviction under Section 242. This, however, was not the effect of the trial court's instruction.

Petitioner testified that his purpose in administering the beating was to punish Williams for his attempts to escape, and that he inflicted the beating as an alternative to instituting a proceeding against Williams under a warrant. Clearly, this testimony, if true, would establish the specific intent required under Section 242.[3] The effect of the trial court's instruction was merely to inform the jury that if petitioner's statements were true, the legal elements of guilt under Section 242, including the specific intent

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[3] That petitioner's underlying rationale may have been prison discipline is, as the court of appeals held (Pet. App. A 9), irrelevant. Petitioner admittedly knew that Williams was entitled to formal charge and trial and nonetheless chose to administer summary punishment.

required by the statute, were present according to petitioner's own testimony. As the court below said, "a judge can properly instruct as to what acts the statute condemns, which is the most the instructions did here" (Pet. App. A9). The instructions, therefore, did not preclude the jury from determining whether petitioner acted with the requisite intent: "The instructions of the judge left [to the jury] the option to believe or disbelieve what they had heard" (Pet. App. A9).[4]

2. The court below was also correct in holding that the instructions did not constitute an affirmative direction to find petitioner guilty on Count 1. While a trial judge in the federal courts may not direct a verdict of guilty in a criminal case, he is authorized to comment on and analyze for the jury the evidence introduced at trial. *United States* v. *Murdock*, 290 U.S. 389. Accordingly, the judge here acted within his province in pointing out to the jury that if petitioner's testimony was true, a verdict of guilty would be justified. In short, "[t]he judge did not tell the jury they had to find the defendant guilty. He told them that the evidence was not in conflict and, if

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[4] *Screws* v. *United States, supra,* and *Morissette* v. *United States,* 342 U.S. 246, relied on by petitioner, were properly distinguished by the court of appeals. Unlike this case, neither of those cases presented uncontradicted evidence establishing intent. Here, such evidence was present as to one count, and the trial court gave proper general instructions necessary to assist the jury in determining whether the defendants acted with the specific intent prohibited by the statutes involved.

they chose to believe it, the elements of the offense had been established" (Pet. App. A11).

The decision below arises out of unique and uncontradicted facts. It is not in conflict with this Court's previous rulings, nor does it raise any novel questions of law. There is no reason for further review by this Court.

## CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted.

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